

# Arnold & Porter

Christopher M. Odell  
+1 713.576.2401 Direct  
Christopher.

November 9, 2023

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: **11/17/2023**  
DATE FILED: **11/17/2023**

VIA ECF

Honorable Jennifer H. Rearden  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

## MEMO ENDORSED

Re: *Kristi Vuksanovich, et al. v. Airbus Americas, Inc., et al.*, 1:21-cv-03454-JHR  
Local Civil Rule 37.2 Letter-Motion regarding Recently Discovered Deficiencies  
in Plaintiffs' Document Production

Dear Judge Rearden:

We write on behalf of Defendants Airbus Americas, Inc. and Airbus S.A.S. (collectively, "Defendants") in the above-captioned matter. Pursuant to Rule 37.2 of the Local Rules of the Southern District of New York and Section 3.C of this Court's Individual Rules, Defendants request an informal conference to address recently discovered deficiencies in Plaintiffs Kristi and Mark Vuksanovich's document production in response to Defendants' First Set of Requests for Production, served September 7, 2022. Counsel conferred virtually on November 9, 2023 but were unable to resolve the issues in this letter-motion.

Although fact discovery does not end until February 16, 2024, Defendants submit this letter-motion now in light of Plaintiffs' recent confirmation about discovery deficiencies, including failures to collect, produce, and preserve potentially relevant material, and the Court's briefing schedule on Defendants' summary judgment motion on limitations. Dkt. 121.

# Arnold & Porter

Honorable Jennifer H. Rearden  
November 9, 2023  
Page 2

## I. Background

More than a year since Defendants served their September 7, 2022 First Set of Requests for Production, Ms. Vuksanovich has produced approximately 75 documents, and Mr. Vuksanovich has produced fewer than 20, nearly all of which are screenshots of links he shared on Facebook. Defendants, on the other hand, have produced more than 70,000 documents – incurring significant e-discovery costs. On August 2, 2023, counsel for Plaintiffs told Defendants via email that “we don’t have any further documents to produce.”

Relying on that representation, Defendants scheduled oral depositions of Ms. Vuksanovich (September 20, 2023) and Mr. Vuksanovich (November 3, 2023) and thereafter requested leave to file a summary judgment motion on the statute of limitations, which the Court granted on October 31, 2023, *see* Dkt. 121. Meanwhile, Defendants proceeded with Mr. Vuksanovich’s November 3 deposition, relying on Plaintiffs’ counsel’s November 1 representation that there are only “a very limited number of documents in Mr. Vuksanovich’s possession, almost all of which are instances in which he simply shared articles on his Facebook page.” Dkt. 122 at 1.

But Mr. Vuksanovich’s deposition testimony established that this representation was incorrect, and that Plaintiffs were allowed to self-collect documents without adequate instruction or oversight, possess potentially relevant responsive documents, and likely spoliated other responsive material. Although Mr. Vuksanovich testified he was instructed orally “not to destroy documents” (Ex. 1 at 12:5–10), he did not recall receiving any written guidance whatsoever on preserving or collecting responsive documents (Ex. 1 at 11:7–9). He testified that when he received

# Arnold & Porter

Honorable Jennifer H. Rearden  
November 9, 2023  
Page 3

Defendants' requests in September 2022, he did not search for documents (Ex. 1 at 25:12–23) and that he has never received or used search terms to identify responsive text messages or emails (Ex. 1 at 27:4–15). He has never reviewed his text messages from 2017, 2018, 2019, or 2020, and is unsure whether they still exist. Ex. 1 at 25:12–27:3. He never preserved his or his wife's handwritten notes. Ex. 1 at 21:15–22:18. He deleted social media posts but is unable to recall whether any of the deleted posts were responsive. Ex. 1 at 16:4–17:16. And, Plaintiffs have an unknown number of responsive, highly relevant texts (Ex. 1 at 36:15–38:16, 40:2–41:14), handwritten notes (Ex. 1 at 21:15–22:18, 23:7–13, 75:2–24) and at least one letter (Ex. 1 at 123:2–12) that have not been collected or produced.

Plaintiffs' failures to fully comply with their discovery obligations is improper and wholly unjustified. As explained below, the Court should order Plaintiffs to comply immediately with their discovery obligations and to search for and produce all potentially responsive documents.

## **II. Request That Plaintiffs Should Be Ordered To Search For and Produce All Responsive Documents Including Those Identified In Mr. Vuksanovich's Deposition**

“Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense . . . .” Fed. R. Civ. P. 26(b)(1). “A party seeking discovery may move for an order compelling an answer, designation, production, or inspection” when “a party fails to produce documents.” Fed. R. Civ. P. 37(a)(3)(B). Defendants request an order compelling Plaintiffs to search for and produce responsive documents from their email, phones, and other sources, including the responsive documents Mr. Vuksanovich identified during his oral deposition:

# Arnold & Porter

Honorable Jennifer H. Rearden  
November 9, 2023  
Page 4

**Text Messages:** Plaintiffs promised to produce responsive text messages. *See, e.g.*, Ex. 2 at Response to Request No. 9 (medical diagnoses), 18 (incidents in complaint and claims in litigation), No. 19 (cabin air quality), No. 20 (work attendance), No. 21 (effects on the marriage), No. 32 (alleged fume events). But Mrs. Vuksanovich has produced fewer than ten text exchanges, and Mr. Vuksanovich none. At his November 3 deposition, Mr. Vuksanovich testified that he had never reviewed his text messages from 2017, 2018, 2019, or 2020; never applied search terms to his texts; and was unsure whether he had responsive texts. Ex. 1 at 26:4–27:15.

In fact, according to Mr. Vuksanovich, Plaintiffs never received any instructions from counsel other than “not to destroy documents,” (Ex. 1 at 11:23–12:10) and even that proved inadequate, as Mr. Vuksanovich testified that he never stopped his phone from automatically deleting texts and was never told to do so. Ex. 1 at 12:23–13:10. Neither he nor his counsel has ever backed up his phone’s data, and he has no idea whether texts from the critical period—2017–2020—still exist. Ex. 1 at 13:24–14:4, 24:11–25:4, 26:4–27:3. If these messages still exist, they contain responsive text messages, potentially critical to Defendants’ statute-of-limitations briefing, including messages exchanged with family and friends about aircraft cabin air (Ex. 1 at 36:15–38:23) and the impact of Ms. Vuksanovich’s medical condition on the Plaintiffs’ marriage (Ex. 1 at 40:2–41:–14).

**Handwritten Notes:** Plaintiffs also agreed to produce responsive notes. *See, e.g.*, Ex. 2 at Response to Request No. 9, No. 18, No. 19, No. 20, No. 21. Although neither Plaintiff has produced any, Mr. Vuksanovich testified that he has handwritten notes “relat[ed] to [his]

# Arnold & Porter

Honorable Jennifer H. Rearden

November 9, 2023

Page 5

allegations in the case”—including Ms. Vuksanovich symptoms—which he keeps “on a legal pad at home” (Ex. 1 at 21:15–22:5, 22:15–18) as well as notes from Ms. Vuksanovich’s doctor meetings (Ex. 1 at 23:7–13). Asked whether he provided those notes to counsel, he responded “Not yet.” Ex. 1 at 22:6–8. He also revealed that Ms. Vuksanovich keeps “very good notes of her day-to-day routine”—memorializing “schedules, appointments, what kind of things she needs to take, her regimen of supplements, conversations with her doctors”—kept in “her office.” Ex. 1 at 75:2–24. These materials are responsive to the Defendants’ requests. Defendants believe these notes are likely relevant to the pending statute-of-limitations summary judgment briefing.

**Letters:** Plaintiffs also promised to produce responsive documents concerning Plaintiffs’ personal injury claims. Ex. 2 at Response to Request No. 31. During his deposition, after being shown a letter that Mr. Vuksanovich wrote to one of Ms. Vuksanovich’s physicians (which was produced by that physician), Mr. Vuksanovich testified that he authored another, unproduced letter to the Social Security Administration. Ex. 1 at 123:2–12. This letter and any like it are both responsive and potentially relevant to limitations and should be produced.

### **III. Defendants Request a Written Declaration Describing Plaintiffs’ Efforts to Preserve, Collect, and Produce Documents Responsive to Defendants’ Requests**

“In certain circumstances where a party makes some showing that a producing party’s production has been incomplete, a court may order discovery designed to test the sufficiency of that party’s discovery efforts in order to capture additional relevant material.” *Freedman v. Weatherford Intern. Ltd.*, No. 12 CIV. 2121 LAK JCF, 2014 WL 4547039, at \*2 (S.D.N.Y. Sept. 12, 2014). Defendants request that Plaintiffs provide a declaration describing the steps taken to (i)

# Arnold & Porter

Honorable Jennifer H. Rearden  
November 9, 2023  
Page 6

preserve, (ii) collect, and (iii) produce documents in their possession, custody, or control responsive to Defendants' requests.

Courts have found a sufficient factual basis for such discovery when the requesting party "provided specific examples of [the] deficient production." *CBF Industria de Gusa S/A v. AMCI Holdings, Inc.*, No. 13CV2581PKCJLC, 2019 WL 3334503, at \*18 (S.D.N.Y. July 25, 2019).<sup>1</sup> Here, as set forth in detail above, Defendants' request for a declaration is based on specific, tangible evidence of Plaintiffs' repeated material failures to meet their discovery obligations, as set forth in Mr. Vuksanovich's own testimony.

## IV. Conclusion

Because Plaintiffs have in their possession unproduced, responsive documents highly relevant to the pending motion for summary judgment on limitations, which Defendants were not aware of until November 3, 2023 (after the Court set a briefing schedule on Defendants' summary judgment motion), Defendants request that the Court schedule an informal conference on the issues in this letter-motion so that, in the event the Court compels production from Plaintiffs as requested, the parties have sufficient time to complete the production well in advance of December 11, when briefing on Defendants' summary judgment motion closes.

---

<sup>1</sup> See also *Vieste, LLC v. Hill Redwood Dev.*, No. C-09-04024 JSW DMR, 2011 WL 2198257, at \*3–4 (N.D. Cal. June 6, 2011) (ordering defendants to submit preservation-and-collection declarations based in part on deposition testimony that attorneys failed to properly instruct defendants).

# Arnold & Porter

Honorable Jennifer H. Rearden  
November 9, 2023  
Page 7

**APPLICATION GRANTED.** On November 22, 2023 at 3:00 p.m., counsel for all parties shall appear for a telephone conference regarding Defendants' November 9, 2023 letter-motion. See ECF No 123. Counsel should join the conference by dialing 646-453-4442 and entering access code 6537 8679 followed by the pound (#) key. Additionally, by Monday, November 20, 2023, Defendants shall file via ECF the full August 2, 2023 email exchange referenced in ECF Nos. 123 and 124.

SO ORDERED.

  
Jennifer H. Rearden, U.S.D.J.  
Dated: November 17, 2023

Respectfully submitted,

/s/ Christopher M. Odell

Christopher M. Odell  
christopher.odell@arnoldporter.com  
ARNOLD & PORTER KAYE SCHOLER LLP  
700 Louisiana St., Ste. 4000  
Houston, Texas 77098  
T: (713) 576-2400  
F: (713) 576-2499  
*Admitted pro hac vice*

Diana Sterk  
diana.sterk@arnoldporter.com  
ARNOLD & PORTER KAYE SCHOLER LLP  
250 W. 55th St.  
New York, NY 10019  
T: (202) 942-5000  
F: (212) 836-6638

David Weiner  
david.weiner@arnoldporter.com  
Megan Pieper  
megan.pieper@arnoldporter.com  
ARNOLD & PORTER KAYE SCHOLER LLP  
601 Massachusetts Ave. NW  
Washington, DC 20001  
T: (202) 942-5000  
F: (202) 942-5999  
*Admitted pro hac vice*

*Attorneys for Defendants Airbus Americas, Inc. and  
Airbus S.A.S.*

## Exhibit 01

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 Case No. 21-cv-3454-KPF

5  
6 KRISTI VUKSANOVICH and MARK VUKSANOVICH,  
7 Plaintiffs,  
8 against-  
9

10 AIRBUS AMERICAS, INC., and AIRBUS S.A.S.,  
11  
12 Defendants.  
13

14 VIDEO DEPOSITION OF MARK VUKSANOVICH  
15 NEW YORK, NEW YORK  
16 FRIDAY, NOVEMBER 3, 2023  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTED BY:  
DANIELLE GRANT  
JOB NO.: 6154785

1 MARK VUKSANOVICH

2 attorney about filing this matter, were you  
3 provided with any information about  
4 preserving documents or other communications  
5 in anticipation of litigation?

6 A Yes.

7 Q Were you given written direction  
8 for preserving documents?

9 A I can't recall.

10 Q Were you given verbal instructions  
11 for preserving documents?

12 A Yes.

13 Q What instructions were you given  
14 about what you need to do to preserve  
15 documents?

16 A The question is the verbal  
17 instructions?

18 Q So is my understanding correct  
19 that you don't recall if there were  
20 instructions in writing?

21 A I don't recall if there was  
22 instructions in writing.

23 Q So my question is, like, what were  
24 you instructed to do verbally if you recall  
25 it, or in general, even, you know, if it was

1 MARK VUKSANOVICH

2 in writing and you recall the instruction  
3 but not the form, what were you instructed  
4 to do?

5 A As I recall the conversation, I  
6 was asked not to destroy documents, not to  
7 make any changes or anything out of the norm  
8 that would interfere with our ability to  
9 file the lawsuit. That's the conversation  
10 that I recall.

11 VIDEOPHOTOGRAPHER: And I don't get  
12 into any more content.

13 MR. FALVEY: Right. I understand.  
14 I saw where you were going.

15 MS. PIEPER: Yeah.

16 MR. FALVEY: You were careful.

17 THE WITNESS: Okay.

18 Q And what did you do in order to  
19 preserve your documents and communications  
20 related to this lawsuit?

21 A It was just a conscious  
22 understanding, that's how I understood it.

23 Q Did you ensure that your phone  
24 would not automatically delete old text  
25 messages?

1 MARK VUKSANOVICH

2 A No.

3 Q Were you instructed to take a look  
4 at your phone setting for retaining text  
5 communications?

6 A Not specifically.

7 Q Do you happen to know if your  
8 phone's settings retain text messages in  
9 perpetuity?

10 A I'm not positive.

11 Q And did you take any affirmative  
12 steps to preserve text messages?

13 A No.

14 Q Okay. So just to make sure I  
15 understand, you don't know if, for example,  
16 your phone deletes text messages after a  
17 year?

18 A Correct. I do not know if that  
19 setting is enabled.

20 Q And do you know whether you  
21 currently have on your phone text messages  
22 that go back to any specific date?

23 A No.

24 Q Did anybody image your phone or  
25 back up the data that was on your phone in

1 MARK VUKSANOVICH

2 order to make sure the data was preserved on  
3 your device?

4 A No.

5 Q Okay. Did you take any  
6 affirmative steps to retain communications  
7 sent to you via social media?

8 A Yes.

9 Q What did you do there?

10 A I didn't delete anything.

11 Q Okay. So for example, you have  
12 retained all of your social media accounts;  
13 is that fair?

14 A Yes.

15 Q So you didn't have any social  
16 media accounts at the beginning of this  
17 litigation that you no longer retain?

18 A Yes.

19 Q And you have ensured that you did  
20 not go back in time and delete anything that  
21 you had posted; is that right?

22 A No.

23 Q Okay. Let me -- let me make sure  
24 I understand your answer to that.

25 So when you say "no," are you

1 MARK VUKSANOVICH

2 saying, No, you have not deleted anything?

3 A I'm saying, no, there have been  
4 times that I have looked at my social media  
5 and links did not work on some of my  
6 previous posts, so those were removed. They  
7 were just blank entries on a social media  
8 post. My social media is only to my friends  
9 and family. It's not like I'm posting to  
10 the world.

11 Q Understood. You're not an  
12 influencer?

13 A Correct.

14 Q Were any of the posts that you  
15 deleted on your social media, regardless of  
16 whether the links worked or not, related, in  
17 any way, to the allegations in this case?

18 MR. FALVEY: Objection. I think  
19 that's a mischaracterizations of what  
20 he said. He never said he deleted  
21 anything on this line of questioning at  
22 least.

23 MS. PIEPER: I'm sorry.

24 MR. FALVEY: He said the link  
25 expired.

1 MARK VUKSANOVICH

2 Q Okay. So let me make sure I  
3 understand.

4 You said you have gone back  
5 through your social media, correct?

6 A Correct.

7 Q And some of the links no longer  
8 work if you click them.

9 Is that a fair way to characterize  
10 it?

11 A Yes.

12 Q Did -- do you delete those posts  
13 if the links failed to work?

14 A Yes.

15 Q Okay. Were any of the posts that  
16 were deleted related to cabin air quality?

17 A I'm not sure.

18 Q Were any of the posts that were  
19 deleted related to any conditions or  
20 symptoms that your wife alleges she has  
21 experienced in this litigation?

22 A I do not post those things on my  
23 social media --

24 Q Okay.

25 A -- related to my wife.

1 MARK VUKSANOVICH

2 Q So to make sure I understand, you  
3 do not share, via social media, about your  
4 wife's health?

5 A Not my wife's health.

6 Q You have possibly shared, and  
7 based on your production I can represent  
8 have shared, information related to the  
9 allegations in this case, correct?

10 A Yes.

11 Q And you're not sure if any of the  
12 expired links that you've removed from your  
13 social media were also related to the  
14 allegations --

15 A Correct.

16 Q -- in this case?

17 When was the last time that you  
18 replaced your laptop?

19 A 2000 -- my -- 2011, my personal  
20 laptop, I think is -- but I don't use it.  
21 It's been collecting dust.

22 Q Understood. And do you use your  
23 work computer for collecting information  
24 related to your allegations in this case?

25 A No.

1 MARK VUKSANOVICH

2 Q Do you save any files on your work  
3 computer related to your allegations in --

4 A No.

5 Q -- this case?

6 When was the last time you  
7 replaced your phone?

8 A I can't recall the specific date.

9 Q Have you had your current phone  
10 for six years?

11 A No.

12 Q Have you had your current phone  
13 for longer than four years?

14 A Possibly.

15 Q Possibly.

16 If I were to ask you to give a  
17 best estimate of when you purchased your  
18 current phone, what would your best estimate  
19 be?

20 A I would say somewhere in the  
21 2019-2020.

22 Q Okay. Do you still own the phone  
23 that you had prior --

24 A No.

25 Q -- to this current phone?

1 MARK VUKSANOVICH

2 Did you trade it in?

3 A Yes.

4 Q Did you or your -- did you do  
5 anything to preserve the data on that phone  
6 when it was traded in?

7 A I did a backup.

8 Q And were all of the files saved on  
9 that phone backed up?

10 A I believe so.

11 Q Did that include photos?

12 A I'm not sure. I can't recall.

13 Q Do you know if the files that were  
14 backed up on that phone were transferred to  
15 your new device?

16 A I can't confirm that.

17 Q Do you know if text messages were  
18 backed up when you did --

19 A Text messages --

20 Q -- that back up?

21 A -- I believe so, yes.

22 Q Do you know if they were  
23 transferred to your new device?

24 A I can't confirm that. I mean,  
25 when I did the transfer, I saw my text

1 MARK VUKSANOVICH

2 messages transferred over.

3 Did I look through and ensure they  
4 were all there?

5 No.

6 Q Okay. Understood. So you're not  
7 sure if something could have -- there could  
8 have been an error in the transmission?

9 As a --

10 A Correct.

11 Q -- general matter, your text  
12 messages were transferred?

13 A As I understand, yes.

14 Q And, as a general matter, were  
15 your photos transferred?

16 A As I understand, yes.

17 Q Did -- so you backed up the phone  
18 when you last replaced it, correct?

19 A Yes.

20 Q Do you have ongoing backups of  
21 your device?

22 A I'm not sure.

23 Q Okay. What type of phone do you  
24 use?

25 A It's an iPhone.

1 MARK VUKSANOVICH

2 Q Do you know the model?

3 A Not specifically, no.

4 Q Okay. Have you ever done Internet  
5 research related to your allegations in this  
6 case?

7 A Yes.

8 Q What device do you use when you do  
9 Internet research?

10 A My phone.

11 Q And have you taken any affirmative  
12 steps to retain Internet browser or search  
13 histories on your phone?

14 A No.

15 Q Do you save any handwritten notes?

16 A Can you be more specific?

17 Q Yeah. Let me ask a better  
18 question.

19 That was -- have you taken any  
20 notes that relate to your allegations in  
21 this case?

22 A Yes.

23 Q Have you saved those notes?

24 A Yes.

25 Q Where did you take those notes?

1 MARK VUKSANOVICH

2 A On a legal pad at home.

3 Q Yeah. Where is the legal pad  
4 stored?

5 A At home.

6 Q Have you provided those legal pads  
7 to your attorneys?

8 A Not yet.

9 Q Okay. Would you be able to access  
10 those?

11 A Yes.

12 Q Have you taken handwritten notes  
13 in any place other than the legal pad?

14 A No.

15 Q Have the notes you have taken on  
16 the legal pad related to your wife's  
17 symptoms?

18 A Yes.

19 Q Have you taken any notes related  
20 to this case other than direction or  
21 information provided to you by attorneys?

22 A No.

23 Q Have you taken notes in any  
24 doctor's meetings?

25 A In the doctor's meeting or after?

1 MARK VUKSANOVICH

2 Q Well, we'll start with the first  
3 one.

4 Have you taken notes inside any  
5 doctor's meetings?

6 A No.

7 Q Have you taken notes following  
8 doctor's meetings?

9 A Yes.

10 Q Were any of those notes for any  
11 purpose other than providing information to  
12 counsel?

13 A Yes.

14 Q Okay. Have you taken notes  
15 related to your allegations of air toxic  
16 syndrome in your notepad?

17 A No.

18 Q Okay. When you have -- okay.  
19 Actually, scratch that.

20 MS. PIEPER: I'm going to put our  
21 first exhibit on the record. This is  
22 going to be marked as Exhibit Number 1.

23 (Whereupon, the Defendants' First  
24 Request for the Production of  
25 Documents was marked as Deposition

1 MARK VUKSANOVICH

2 Exhibit No. 1 for identification, as  
3 of this date.)

4 MS. PIEPER: So for the record, we  
5 have just put on Exhibit Number 1.

6 This was Defendants' First Request for  
7 the Production of Documents.

8 Q Mr. Vuksanovich have you seen this  
9 before?

10 A Yes.

11 Q Okay. If you flip to the last  
12 page, you'll see it has a "12" at the  
13 bottom, you can see, under the certificate  
14 of service, that this was sent to your  
15 attorneys in September of 2022.

16 Do you see that?

17 A I see the date, yes.

18 Q Do you recall receiving these at  
19 that time?

20 A To the best of my knowledge, yes.  
21 I do recall it wasn't actually that date.  
22 The date was a little different than when we  
23 actually received it in the email, this one  
24 in particular I believe.

25 Q And -- okay. So maybe not on

1 MARK VUKSANOVICH

2 September 7th, but would you have received  
3 it, like, in September of 2022?

4 A Yes.

5 Q Understood. Sometimes, attorneys  
6 go home at night and go back --

7 MR. FALVEY: Once in a while.

8 Q -- to work the next day.

9 MS. PIEPER: Occasionally,  
10 attorneys go home at night. Fair  
11 enough.

12 Q What did you do at that time, that  
13 is in September of 2022, in efforts to  
14 respond to these?

15 A Can you be more specific?

16 Q Sure. Did you, in or around  
17 September of 2022, search for documents?

18 A Not specifically.

19 Q Did you make any efforts, in or  
20 around September 2022, to review your text  
21 messages to identify ones related to this  
22 litigation?

23 A Not specifically, no.

24 Q Have you, at any time, reviewed  
25 your text messages to identify ones related

1 MARK VUKSANOVICH

2 to this litigation?

3 A Yes.

4 Q When you did that, have you  
5 reviewed text messages from the year 2017?

6 A No.

7 Q Do you still have your text  
8 messages from the year 2017?

9 A I'm not positive.

10 Q Did you review text messages from  
11 the year 2018?

12 A I'm not positive.

13 Q Do you know if you have text  
14 messages from the year 2018?

15 A No. I don't -- I don't know.

16 Q Understood. Did you review text  
17 messages from the year 2019?

18 A No.

19 Q Do you know if you still have your  
20 text messages from the year 2019?

21 A No.

22 Q Did you review text messages from  
23 the year 2020?

24 A No.

25 Q Do you know if you still have your

1 MARK VUKSANOVICH

2 text messages from the year 2020?

3 A No.

4 Q Did you apply any search terms to  
5 whatever universe of text messages is in  
6 your possession to identify text messages?

7 A No.

8 Q Have you ever applied search terms  
9 in your email in-box to identify emails?

10 A No.

11 Q Have you ever been provided any  
12 search terms to apply to your electronic  
13 data in order to identify relevant  
14 documents?

15 A No.

16 Q Okay. But you were provided this  
17 document with a request for production of  
18 documents, correct?

19 A Yes.

20 Q Understood. And at the time you  
21 were provided this document, did you  
22 understand that you were a plaintiff in the  
23 litigation?

24 A Yes.

25 Q And did you understand that this

1 MARK VUKSANOVICH

2 cabin air quality?

3 A Yes.

4 Q Who have you communicated with in  
5 your family?

6 A Well, my mother for sure.

7 Q And what is your mom's name?

8 A Laura.

9 Q Okay. Is she also a Vuksanovich?

10 A No. Her maiden name was  
11 Stephenson -- or Pulatti (ph). I'm sorry.  
12 I can't remember. She just remarried not  
13 too long ago.

14 Q Congratulations to her.

15 And have you communicated with  
16 anyone else, besides your mother Laura,  
17 about cabin air quality?

18 A Yes.

19 Q Who in your family have you  
20 communicated with?

21 A I would say the same people that I  
22 already discussed.

23 Q So that includes your father?

24 A My immediate family, her immediate  
25 family. We've had several communications.

1 MARK VUKSANOVICH

2 Q Your uncle still?

3 A I'm sorry?

4 Q Does this also include your uncle?

5 A Yes. Yes.

6 Q What is your uncle's name?

7 A Larry Pulatti.

8 Q Okay. Pulatti.

9 Were any of these communications  
10 with your family related to cabin air  
11 quality written communications?

12 A Yes.

13 Q In what form?

14 A So the social media links that I  
15 believe were made available to you. I've  
16 shared some of those stories. Not my story,  
17 but I have shared that kind of information  
18 to my family so they understand a little bit  
19 of what we have been dealing with.

20 Q Have you sent those via text  
21 message?

22 A I can't recall.

23 Q Have you sent them via email?

24 A I don't believe so.

25 Q Have you shared them in a form

1 MARK VUKSANOVICH

2 other than social media?

3 A Yes. I would say text messages.  
4 I probably have sent links.

5 Q Okay. So is it -- is my  
6 understanding correct that you have likely  
7 sent links to your family via text message,  
8 you just don't specifically recall each  
9 message?

10 A Yes.

11 Q And would you have a way to go  
12 find those messages?

13 A I believe so, yes.

14 Q Okay. Have you made any efforts  
15 to find those text up until this point?

16 A No.

17 Q Okay. So we've discussed your  
18 family; same questions for friends.

19 Have you had communications with  
20 friends concerning cabin air quality?

21 A Yes.

22 Q Kyle?

23 A Yes.

24 Q Any other friends?

25 A I can't recall specifically. He

1 MARK VUKSANOVICH

2 Q Yes. Have you had communications  
3 with any persons related to the impact of  
4 the incidents at issue in this litigation on  
5 your marriage?

6 A Yes.

7 Q Who have you communicated with?

8 A The same list that I provided  
9 earlier, friends and family. As far as I  
10 can recall, it would be just that. I'm not  
11 a socialite.

12 Q Not a socialite or an  
13 influencer --

14 A Right.

15 Q -- we've decided.

16 So have any of these  
17 communications been written communication?

18 A No.

19 Q So you have not -- is your  
20 testimony that you have not exchanged text  
21 messages with Kyle related to the way  
22 that --

23 A So let me clarify. You said  
24 "written."

25 Are you also talking about text

1 MARK VUKSANOVICH  
2

3 messages?

4 Q Let me -- thank you for asking.  
5 Yes, written including electronic  
6 communications.

7 A Okay.  
8

9 Q Have you exchanged any nonverbal  
10 communications?  
11

12 A Yes.  
13

14 Q What types of nonverbal  
15 communications have you --  
16

17 (Cross talk.)  
18

19 A Text messages for the most part,  
20 and the social media.  
21

22 Q Have any of your social media  
23 posts related to the impact of these  
24 incidents on your marriage?  
25

A No.  
Q Okay. Have any --  
A Very private.  
Q I just wanted to clarify to make  
sure that I --  
A I understand.  
Q -- was getting this right.  
Have any of your text messages

1 MARK VUKSANOVICH

2 lets them out, feeds them. She also spends  
3 a lot of time in her office. She takes very  
4 good notes of her day-to-day routine. And I  
5 know she takes a lot of breaks, because she  
6 can't really spend a lot of time on a  
7 computer in her office.

8 Q Has she always taken notes of her  
9 day-to-day routine since you've been  
10 married?

11 A I believe so, yes.

12 Q Okay.

13 A To my knowledge, it appears like  
14 she's -- she has to take notes because she  
15 is -- she does have a problem with  
16 short-term memory. So she writes things  
17 down, schedules, appointments, what kind of  
18 things she needs to take, her regimen of  
19 supplements, conversations with her doctors  
20 and just, as far as, you know, that, she's  
21 very meticulous.

22 Q And she keeps those notes in her  
23 office?

24 A Yes.

25 Q Does she go to doctors'

1 MARK VUKSANOVICH

2 Q You have a separate letter that  
3 you wrote to the Social Security agency?

4 A Yes.

5 Q Do you -- do you recall --

6 A Yes.

7 Q -- when you wrote the letter to  
8 the Social Security agency?

9 A Specifically, no. I -- there were  
10 some forms that we had to fill out for the  
11 Social Security that -- that's the forms I'm  
12 referring to, that's the letters.

13 Q Would you be able to locate those  
14 forms if you needed to?

15 A Yes.

16 Q Have you written any other letters  
17 or forms related to your wife's condition?

18 A Not that I can recall, no. This  
19 is the one that was the separate letter but  
20 I -- like I said, the Social Security  
21 letters, I remember writing some things to  
22 Social Security. I take that back. There  
23 may have been a letter that I helped author  
24 to get some help when we had a storm. I  
25 can't remember what the name of the agency

MARK VUKSANOVICH

## CERTIFICATE

STATE OF NEW YORK )

) ss:

COUNTY OF RICHMOND)

I, DANIELLE GRANT, a Certified  
Shorthand Reporter and Notary Public  
within and for the State of New  
York, do hereby certify:

That MARK VUKSANOVICH, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

In witness whereof, I have hereunto  
set my hand this 6th day of

November, 2021

Danielle Great

DANIELLE GRANT

## Exhibit 02

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

KRISTI VUKSANOVICH and MARK  
VUKSANOVICH,

Plaintiffs,  
v.

AIRBUS AMERICAS, INC., and AIRBUS S.A.S.,

Defendants.

Civil Action No: 21-cv-3454-KPF

PLAINTIFFS' RESPONSES TO DEFENDANTS' FIRST REQUESTS FOR THE  
PRODUCTION OF DOCUMENTS

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Plaintiffs, Kristi Vuksanovich and Mark Vuksanovich, hereby respond to the Defendants Airbus Americas, Inc. and Airbus S.A.S.'s (hereinafter "Defendants" or "Airbus") first requests for the production of documents as follows:

**REQUEST No. 1:** All documents identified or requested to be identified in your responses to Defendants' Interrogatories.

**RESPONSE No. 1:**

Not applicable. Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to the interrogatories and this request and assert further objections.

**REQUEST No. 2:** All documents used to assist in preparing your responses to Defendants' Interrogatories.

**RESPONSE No. 2**

Objection. Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial,

seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Plaintiff further objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks the disclosure of collateral source information, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiffs state that they have no responsive, non-privileged records in their custody or control. Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 3:** All documents you received or reviewed (from any source) regarding neurotoxins, organophosphates, carbon monoxide, carbon dioxide, volatile compounds, semi-volatile organic compounds, tricresyl phosphates, or N-phenyl-L-naphthylamine prior to the filing of the Complaint.

**RESPONSE No. 3**

Objection. Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial, seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Plaintiff further objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks the disclosure of collateral source information, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Plaintiffs have made no determination as to which articles/sources they will use at the time of trial and reserve the right to supplement as per the pretrial order of the court and rules of civil procedure. Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 4:** Every bill or invoice from every health care provider who provided any services, treatment, or prescribed any medication for any health-related condition or injury that you contend was caused or contributed to by the Incidents or for which you seek to hold Defendants liable.

**RESPONSE No. 4:**

Plaintiff's treatment and discovery is incomplete and ongoing, and as such Plaintiff reserves the right to supplement the response to this Request and assert objections. Plaintiff refers Defendants

to the documents provided in response to the records requests that she authorized Defendants to request and obtain.

**REQUEST No. 5:** Every bill, invoice, statement, receipt, and cancelled check for or relating to any expense incurred by you as a result of the Incidents, or for which you otherwise contend that Defendants are or should be liable.

**RESPONSE No. 5:**

Plaintiff refers the Defendants to her response to Request No. 4.

**REQUEST No. 6:** Each and every paycheck, disability check, or statement of your earnings for the period of June 2016 to the Present.

**RESPONSE No. 6:**

Plaintiff objects to this Request as it is overly broad and unduly burdensome. Plaintiff further objects to the extent it seeks information not reasonably calculated to lead to discovery of admissible evidence. Additionally, discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiffs reserve the right to supplement her response and assert objections.

Notwithstanding the objections, Plaintiff produces the following:

- 2016 W-2 and Earnings Summary
- 2017 W-2 and Earnings Summary
- 2018 W-2 and Earnings Summary
- 2019 W-2 and Earnings Summary
- 2020 W-2 and Earnings Summary
- 2021 W-2 and Earnings Summary

The aforementioned W-2 forms are attached hereto as **Exhibit 1**. Plaintiffs also produce the following:

- Social Security Administration Notice of Award, dated October 21, 2019, attached as **Exhibit 2**.

**REQUEST No. 7:** Each and every statement of earnings, or other accounting, of any self-employment income you have received from any sole proprietorship, corporation, limited liability company, or similar business entity for the period of June 2016 to the present.

**RESPONSE No. 7:**

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert objections.

**REQUEST No. 8:** Each and every document concerning, referring or relating to any loss of time from your career or occupation, or any loss of earnings, that you contend you have experienced as a result of the Incidents.

**RESPONSE No. 8:**

Objection. Plaintiff objects to this Request on the grounds that it is overly broad and unduly burdensome. The request is also vague. Further, Plaintiff objects to the extent the Defendant seeks information not reasonably calculated to lead to discovery of admissible evidence. Additionally, discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Plaintiff reserves the right to supplement the response to this request and assert further objections.

Notwithstanding the objections, the Plaintiff refers the Defendants to the documents provided in response to the medical records requests that she authorized the Defendants to request and obtain.

**REQUEST No. 9:** All documents regarding any medical diagnosis that you have received relating to any symptoms that you attribute to the Incidents. This request includes but is not limited to the diagnoses referenced in paragraphs 81-83, 85-86, and 88 of the Complaint.

**RESPONSE No. 9:**

Objection. Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial, seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Additionally, Plaintiff's medical treatment and discovery are incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Plaintiff reserves the right to supplement her response to this request and assert further objections.

The Plaintiff refers the Defendants to the documents provided in response to the medical records requests that she authorized the Defendants to request and obtain.

**REQUEST No. 10:** All documents regarding all testing of any kind that you have undergone, or are scheduled to undergo, relating to symptoms that you attribute to the Incidents, including but not limited to all test results. This request includes but is not limited to the tests referenced in paragraphs 79 and 82-86 of the Complaint.

**RESPONSE No. 10:**

Objection. Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial, seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Plaintiff's medical treatment and discovery are incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Plaintiff reserves the right to supplement her response to this request and assert further objections.

Notwithstanding the objections, Plaintiff refers Defendants to the AVSA Lab Analytical Report, attached as **Exhibit 22.**

Plaintiff further refers Defendants to the documents provided in response to the medical records requests that she authorized Defendants to request and obtain.

**REQUEST No. 11:** All documents concerning medical treatment received by you for any injuries allegedly resulting from the Incidents, including but not limited to any medications or prescription drugs.

**RESPONSE No. 11:**

Objection. The Plaintiff objects to this Request on the grounds that it seeks information not reasonably calculated to lead to discovery of admissible evidence. Additionally, the Plaintiff's medical treatment and discovery are incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

The Plaintiff refers the Defendants to the documents provided in response to the medical records requests that she authorized the Defendants to request and obtain.

**REQUEST No. 12:** All communications between you and any health care provider or medical entity from the date of the Incidents to the present.

**RESPONSE No. 12:**

Objection. Plaintiff objects to this request to the extent any and all privileges apply. Plaintiff further objects as the Request is overly broad and unduly burdensome as it is not tailored to any specific communications. Plaintiff's medical treatment and discovery are incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement the response to this request and assert further objections.

Plaintiff refers Defendants to the documents provided in response to the medical records requests that she authorized Defendants to request and obtain.

**REQUEST No. 13:** All “specific medical protocols” provided to you by any physician, including those referenced in paragraphs 78-79 of the Complaint.

**RESPONSE No. 13:**

Plaintiff’s medical treatment and discovery are incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert objections.

Plaintiff refers Defendants to the documents provided in response to the medical records requests that she authorized Defendants to request and obtain.

**REQUEST No. 14:** Any and all medical records, or reports from your physicians, hospitals, other health care providers, or medical insurance companies concerning any diagnosis, examination, treatment, and prescription and or over-the-counter medicine prescribed to you for the past 10 years.

**RESPONSE No. 14:**

Objection. Plaintiff objects to this Request on the grounds that it seeks information not reasonably calculated to lead to discovery of admissible evidence. Additionally, discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

Plaintiff refers the Defendants to the documents provided in response to the medical records requests that she authorized the Defendants to request and obtain.

**REQUEST No. 15:** A copy of your medical health insurance coverage and/or pharmacy benefits card(s) for the past ten years including Medicare/Medicaid. If the card is no longer available for any program, then other documentation showing the program name, membership, membership number, and benefits.

**RESPONSE No. 15:**

Objection. Plaintiff objects to this Request on the grounds that it seeks information not reasonably calculated to lead to discovery of admissible evidence. Notwithstanding the objection, Plaintiff refers the Defendants to its answer to Interrogatory No. 2 as well as the documents provided in response to the medical records requests that the Plaintiff authorized the Defendants to request and obtain.

**REQUEST No. 16:** All documents concerning your medical expenses and charges (including but not limited to bills, billing statements, and invoices) incurred in connection with the Incidents, regardless of whether they have been paid or who paid them.

**RESPONSE No. 16:**

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request.

Plaintiff refers Defendants to the documents provided in response to the medical records requests that Plaintiff authorized Defendants to request and obtain.

**REQUEST No. 17:** All documents that support or relate to any economic damages you claim to have sustained or incurred as a result of the Incidents.

**RESPONSE No. 17:**

Plaintiff objects to this request on the grounds that it is overly broad and unduly burdensome. Notwithstanding the objection, Plaintiff refers the Defendants to the medical bills and personal financials provided as well as the documents provided in response to the records requests that Plaintiff authorized the Defendants to request and obtain.

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 18:** All communications, in any manner or form, made or received by you concerning the Incidents or any claim made in the Complaint. This includes communications in news articles, social media postings, emails, text messages, video recordings, journal entries, medical records, diaries, notes, workers compensation filings, union benefit claims, legal filings and discovery responses, chronologies, and similar recitations.

**RESPONSE No. 18:**

Objection. Plaintiff objects to this request on the grounds that it is overly broad and unduly burdensome. Plaintiff also objects to the extent the Request seeks records protected by the attorney client privilege or the work product doctrine or are otherwise not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding the objections, Plaintiff refers the Defendants to the following:

Please see Exhibits 3 – 57, attached hereto.

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 19:** All communications, in any manner or form, made or received by you concerning aircraft cabin air quality. This includes communications in news articles, social media postings, emails, text messages, video recordings, journal entries, medical records, diaries, notes,

workers compensation filings, union benefit claims, legal filings and discovery responses, chronologies, and similar recitations.

**RESPONSE No. 19:**

Objection. Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial, seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Plaintiff further objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff refers the Defendants to the Response to Request No. 18.

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 20:** All communications, in any manner or form, made or received by you concerning your attendance at work. This includes communications in news articles, social media postings, emails, text messages, video recordings, journal entries, medical records, diaries, notes, workers compensation filings, union benefit claims, legal filings and discovery responses, chronologies, and similar recitations.

**RESPONSE No. 20:**

Objection. Plaintiff objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff refers the Defendants to JetBlue Airways for a complete copy of the Plaintiff's employment records. Please also see Exhibits 30, 31, 57, and 58.

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 21:** All communications, in any manner or form, made or received by you concerning the effect that the Incidents have had on your marriage, including any communications relating to loss of companionship. This includes communications in news articles, social media postings, emails, text messages, video recordings, journal entries, medical records, diaries, notes,

workers compensation filings, union benefit claims, legal filings and discovery responses, chronologies, and similar recitations.

**RESPONSE No. 21:**

Objection. Plaintiff objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff states that discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 22:** All documents that support your claim for loss of consortium.

**RESPONSE No. 22:**

Objection. Plaintiff objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff refers Defendants to the documents provided in response to the records requests that they authorized the Defendants to request and obtain.

Discovery is incomplete and ongoing, and as such Plaintiffs are in the process of gathering relevant and responsive records. Moreover, the Plaintiffs reserve the right to supplement their response to this request and state objections.

**REQUEST No. 23:** All documents regarding any airplane travel you took after June 16, 2017 through the present.

**RESPONSE No. 23:**

Objection. Plaintiff objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff refers the Defendants to Exhibits 43, 48, and 51. Plaintiff further refers Defendants to JetBlue Airways for a complete copy of Plaintiff's employment and travel records.

Discovery is incomplete and ongoing, and as such the Plaintiff is in the process of gathering relevant and responsive records. Moreover, the Plaintiff reserves the right to supplement the response to this request and assert further objections.

**REQUEST No. 24:** Color copies of all social media website content shared on accounts you have used and/or maintained that concern the Incidents, your health, aircraft cabin air, your attendance at work, or any claim made in the Complaint, including but not limited to all expanded posts (including likes and comments), photographs, messages, notes, and comments on your social media accounts regarding the Incident.

**RESPONSE No. 24:**

Objection. Plaintiff objects to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiff objects to this Request on the grounds that it seeks information not reasonably calculated to lead to discovery of admissible evidence. Additionally, discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 25:** All documents related to any worker's compensation claim filed by you related to the Incidents.

**RESPONSE No. 25:**

Objection. Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial, seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Plaintiff further objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff refers Defendants to the documents provided in response to the records requests that they authorized the Defendants to request and obtain.

Discovery is incomplete and ongoing, and as such Plaintiffs are in the process of gathering relevant and responsive records. Moreover, the Plaintiffs reserve the right to supplement their response to this request and state objections.

**REQUEST No. 26:** Copies of all internet browser history on any of your devices for the past 5 years related to aircraft cabin air, fume events, bleed air systems, organophosphate induced delayed neuropathy, neurotoxins, organophosphates, carbon monoxide, carbon dioxide, volatile compounds, semi-volatile organic compounds, tricresyl phosphates, and N-phenyl-L-naphthylamine.

**RESPONSE No. 26:**

Objection. Plaintiff objects to this Request on the grounds that it seeks information not reasonably calculated to lead to discovery of admissible evidence. Further, Plaintiff objects as the Request is overly broad and unduly burdensome. Plaintiff reserves the right to supplement the response to this request and assert further objections.

**REQUEST No. 27:** All evidence documenting the Incidents or concerning the Incidents including photographs, video or sound recordings, witness statements, diary entries or other notes, drawings, inspections, records, and samples.

**RESPONSE No. 27:**

Objection. Plaintiff objects to this Request to the extent it seeks documents protected by the attorney-client privilege and the work product doctrine. The Plaintiff notes that discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement the response to this request and assert further objections.

Notwithstanding the objections, Plaintiff refers Defendants to the response to Request No. 18.

**REQUEST No. 28:** Exhibits you anticipate potentially offering at trial, including all documents identified in your Rule 26 Initial Disclosures.

**RESPONSE No. 28:**

Plaintiff's medical treatment and discovery are incomplete and ongoing, and as such Plaintiff has not made determinations on trial exhibits. Further, the Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 29:** All documents relating to any investigation conducted by you or anyone on your behalf (excluding attorney work product) concerning the Incidents.

**RESPONSE No. 29:**

Objection. Plaintiff objects to the extent the Request seeks records protected by the attorney client privilege or the work product doctrine or are otherwise not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff states that discovery is incomplete and ongoing, and as such Plaintiffs are in the process of gathering relevant and responsive records. Moreover, the Plaintiffs reserve the right to supplement their response to this request and assert further objections.

**REQUEST No. 30:** All communications with the flight attendants' union or its representatives concerning the Incidents or aircraft cabin air.

**RESPONSE No. 30:**

Plaintiff has no responsive records in her control or custody. Plaintiff is in the process of gathering relevant and responsive records. Plaintiff reserves the right to supplement her response to this request and assert objections.

**REQUEST No. 31:** For the period from 2017 to the Present, produce each and every document concerning, referring or relating to any personal injury claim (including formal and semiformal claims, workers compensation claims, litigations, or settlements) which you have asserted or in which you were involved.

**RESPONSE No. 31:**

Objection. Plaintiff objects to this Request as it is overly broad and unduly burdensome. Plaintiff objects to this Request to the extent it seeks documents protected by the attorney-client privilege and the work product doctrine. Plaintiff further objects to the extent it seeks information not reasonably calculated to lead to discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff refers, in part, to its response to Request No. 18 which contains communications with Plaintiff's insurers. Plaintiff notes that discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 32:** All communications between you and any other person regarding the Incidents or any other alleged "fume event" as the phrase is used in paragraphs 25 and 36 of the Complaint, involving any aircraft.

**RESPONSE No. 32:**

Objection. Plaintiff objects to this Request as it is overly broad and unduly burdensome. Plaintiff objects to this Request to the extent it seeks documents protected by the attorney-client privilege and the work product doctrine. Plaintiff further objects to the extent it seeks information not reasonably calculated to lead to discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff refers the Defendants to the Response to Request No. 18. Plaintiff notes that discovery is incomplete and ongoing. The Plaintiff is in the process of gathering

relevant and responsive records. Plaintiff reserves the right to supplement the response to this request and assert further objections.

**REQUEST No. 33:** All documents showing or reflecting your work attendance record from June 2016 to the present.

**RESPONSE No. 33:**

Plaintiff refers the Defendants to JetBlue Airways for a complete copy of the Plaintiff's employment records. Please see Exhibits 30, 31, 57, and 58.

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert objections.

**REQUEST No. 34:** All documents showing or concerning any performance or other evaluation you received from your employer for the past 10 years.

**RESPONSE No. 34:**

Plaintiff refers Defendants to JetBlue Airways for a complete copy of the Plaintiff's employment records. Plaintiff refers Defendants to her Response to Request No. 33.

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert objections.

**REQUEST No. 35:** All documents sufficient to show the make and model of any aircraft that Plaintiff Kristi Vuksanovich has worked or trained on during her career as a flight attendant for Jet Blue or any other airline.

**RESPONSE No. 35:**

Objection. The Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial, seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Plaintiff further objects to this request on the grounds that it is overly broad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, seeks documents that are equally obtainable by the defendant, and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objections, Plaintiff refers Defendants to JetBlue Airways for a complete copy of the Plaintiff's employment records.

Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 36:** All documents supporting your contention that “airplanes currently manufactured by these defendants could be modified to lessen and/or eliminate the risk of fume events entirely without placing an undue burden on the manufacturer.” *See* Complaint at ¶ 97.

**RESPONSE No. 36:**

Objection. The Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial, seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objection, discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

**REQUEST No. 37:** All alleged warranties referenced in paragraphs 108-111 of the Complaint.

**RESPONSE No. 37:**

Objection. Plaintiff objects to this request on the grounds that it seeks the disclosure of attorney work product, seeks the disclosure of documents prepared in anticipation of litigation and/or for trial, seeks an expert opinion and/or otherwise exceeds the scope of permissible discovery pursuant to Fed. R. Civ. P. 26.

Notwithstanding the objection, Plaintiff refers the Defendants to its own records. Discovery is incomplete and ongoing, and as such Plaintiff is in the process of gathering relevant and responsive records. Moreover, Plaintiff reserves the right to supplement her response to this request and assert further objections.

The Plaintiffs,

KRISTI & MARK VUKSANOVICH,

Plaintiffs' Attorneys,

Pro Hac Vice Counsel,

/s/ John T. Martin

John T. Martin (M.A. BBO #676344)  
KECHES LAW GROUP  
100 Front Street  
Suite 2010  
Worcester, MA 01608  
(T) (508)593-3999  
(E) [jmartin@kecheslaw.com](mailto:jmartin@kecheslaw.com)

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below a copy of the foregoing Responses to the Request for the Production of Documents were served by electronic mail upon all Counsel of Record.

Date: November 21, 2022

By: /s/ Ryan A. O'Neill